

# Environmental APPROVALS

## *Hearings and Public Consultation*

### **Environmental Activity & Sector Registry (EASR)**

The Ministry of the Environment is transforming its environmental approvals program. It has worked closely with business, industry and other stakeholders to develop a registration process for standard and routine-type activities and sectors, specifically heating systems, standby power systems and automotive refinishing. As of October 31, 2011, businesses are able to register these activities in the Environmental Activity and Sector Registry (EASR).

EASR registrations do not have to be posted on the Environmental Registry and third-party appeal provisions do not apply. However, the public can access registrations, as well as Environmental Compliance Approvals (ECAs), on the Ministry of the Environment website through the “Access Environment” tab.

### **Environmental Compliance Approvals (ECAs) and the Environmental Bill of Rights (EBR)**

ECA is the new approval that has replaced the Certificate of Approval (CofA) and section 53 Ontario Water Resources Act (OWRA) approval. The ministry has harmonized the process for issuing these approvals across the various media (i.e., air, noise, waste, sewage works).

Proposals for ECA are classified as Class II proposals under the EBR. As a result, they must be posted for a minimum of 30 days on the Environmental Registry for public comment and additional public notice requirements, such as posting for an additional 15 days.

### **ECAs: Discretionary Hearings**

A new discretionary hearing provision applies to all ECA applications. This replaces the mandatory and discretionary hearing provisions that were applicable to some CofA and OWRA s. 53 approval applications. This new provision allows the Director to refer some or all of an ECA application to the Environmental Review Tribunal (ERT) for a hearing.

The new provision harmonizes the use of hearings to support a facility-based, multi-media approach across ECA applications. If a hearing is held, the ministry Director must implement the tribunal’s decision.

### **ECAs: Appeals**

The appeals process takes place after a decision is made. Applicants may appeal a decision by the ministry Director to the ERT. Third parties can seek leave to appeal a Director’s decision only if a proposal for the approval was posted on the Environmental Registry.

A decision made by the ERT can be appealed by any party to the hearing. The appeal is to Divisional Court on a question of law or to the Environment Minister on any other matter.

When the decision pertains to an amended ECA, only the terms and conditions that are different from the previous version of the ECA can be appealed.

### **Where can I get more information?**

Visit: [www.ontario.ca/environmentalapprovals](http://www.ontario.ca/environmentalapprovals)  
Call: 1-800-461-6290 or 416-314-8001

## How does the previous process compare with the new process?

Below is a comparison between the previous process and the process as of October 31, 2011.

Issue	Previous CofA Process	New ECA Process
Will my application be posted on the Environmental Registry (EBR) for public comment?	<ul style="list-style-type: none"> <li>■ If your application was a Class I, Class II or Class III instrument, it would be posted on the EBR.</li> <li>■ Each Class has different consultation requirements.</li> <li>■ Exceptions are as below.</li> </ul>	<ul style="list-style-type: none"> <li>■ ECAs are all classified as Class II instruments.</li> <li>■ Class II instruments are posted on the EBR for a minimum of 30 days.</li> <li>■ Exceptions are as below.</li> </ul>
Is my activity exempt from EBR consultation?	<ul style="list-style-type: none"> <li>■ Separate exceptions to classifications exist depending on the class of the instrument (O.Reg 681/94).</li> <li>■ If the complete application fell under an exception, it would be exempt from EBR consultation.</li> </ul>	<ul style="list-style-type: none"> <li>■ The same exceptions exist for the new ECA instrument (O.Reg 681/94).</li> <li>■ If the complete application fell under an exception, it would be exempt from EBR consultation.</li> </ul>
Will there be a hearing with the Environmental Review Tribunal prior to a ministry decision on my application?	<ul style="list-style-type: none"> <li>■ There were no hearing requirements for air/noise approvals.</li> <li>■ Waste and sewage works applications had either a mandatory or discretionary hearing.</li> <li>■ If there was a hearing, the entire application was considered at the hearing.</li> </ul>	<ul style="list-style-type: none"> <li>■ All applications are subject to discretionary hearings.</li> <li>■ The Director may decide to send any ECA application or part of the application for a discretionary hearing.</li> </ul>
Will my approval be subject to appeal?	<ul style="list-style-type: none"> <li>■ Applicants could appeal a Director's decision and could also appeal a decision from the ERT.</li> <li>■ A third party could seek leave to appeal a Director's decision and if they were a party to the hearing at the ERT, could also appeal the ERT's decision.</li> </ul>	<ul style="list-style-type: none"> <li>■ The same as before with the exception below.</li> <li>■ The appeal can only be about the terms and conditions of the approval that were changed or new. Any terms and conditions that were substantially the same as before could not be appealed.</li> </ul>

*Disclaimer: If any differences exist between this document and the legislation and regulation then the legislation and regulation prevail.*